

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
FEB 14 2006
ADMINISTRATIVE HEARING
COMMISSION

STATE BOARD OF REGISTRATION
FOR THE HEALING ARTS;

Board,

v.

WILLIAM R. COOK, JR., M.D.
1521 Alton Road #676
Miami Beach, FL 33139

Licensee.

Case No.: 05-1054HA

JOINT STIPULATION OF FACTS, WAIVER OF HEARING BEFORE THE
ADMINISTRATIVE HEARING COMMISSION, AND MISSOURI BOARD OF
REGISTRATION FOR THE HEALING ARTS AND CONSENT ORDER WITH JOINT
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.50(1)) and pursuant to the terms of § 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 2000, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the state of Missouri, and jointly stipulate to the facts and proposed conclusions of law.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Board of Registration for the Healing Arts in this case, and the parties submit to the jurisdiction of the Administrative Hearing Commission.

Respondent acknowledges that he is aware of the various rights and privileges afforded it by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon it by the Administrative Hearing Commission prior to the entering of its order; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, Respondent, Jeffrey Parent, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission, and Proposed Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

Based upon the foregoing, the Petitioner and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

Joint Proposed Findings of Fact and Conclusions of Law

1. The State Board of Registration for the Healing Arts (hereinafter "Board") is an agency of the state of Missouri created and established pursuant to §334.120, RSMo, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. William R. Cook, Jr., M.D. ("Licensee") is licensed by the Board as a physician and surgeon, License Number 31673, which license was first issued June 29, 1968. Licensee's certificate of registration is current, and was current and active at all times relevant herein.

3. Licensee was also licensed as a physician in the State of California, Medical Board of California, Certificate Number C 35683. Said license was voluntarily surrendered effective September 20, 2004.

4. On or about September 13, 2004, the Medical Board of California ("CA Board") issued its Stipulated Settlement and Disciplinary Order ("Order") which ordered Licensee to surrender his California medical license by September 20, 2004. A copy of the Order is attached as Exhibit 1 and incorporated by reference as though fully set forth.

5. The Order issued by the California Board is a final disciplinary action pursuant to § 334.100.2(8), RSMo 2000.

JOINT PROPOSED CONCLUSIONS OF LAW

1. Cause exists to discipline Licensee's license pursuant to §334.100.2(8) RSMo 2000, which provides in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * * *

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employers;

* * *

2. Licensee's conduct, as established by the foregoing facts, falls within the intendment of §334.100.2(8), RSMo.
3. Cause exists for the Board to take disciplinary action against Licensee's license under §334.100.2(8), RSMo.

JOINT AGREED ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the order entered by the State Board of Registration for the Healing Arts in this

matter under the authority of §621.110, RSMo. This agreement will be effective immediately on the date entered and finalized by the Board.

A. Effective the date the Board enters into the Agreement:

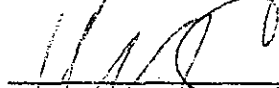
1. The medical license, No. 31673, issued to Licensee is hereby VOLUNTARILY SURRENDERED in lieu of disciplinary action. Licensee understands that this Agreement will be reported to the National Practitioner's Data Bank, the Health Integrity and Protection Data Bank, and the Federation of State Medical Boards as an action in lieu of discipline.

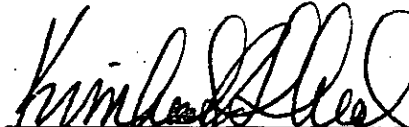
2. Within 30 days of the effective date of this Agreement, Licensee shall return all indicia of Missouri medical licensure to the Board, including but not limited to, his wall-hanging license and pocket card.

B. Licensee hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC §1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, of from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

C. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

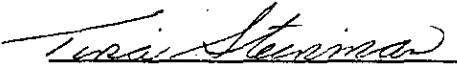
LICENSEE


William R. Cook, Jr., M.D. 2/2/06
Date

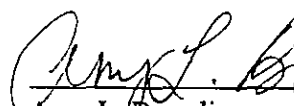

Kimberly Shields 2/16/06
Date
Armstrong Teasdale LLP
Missouri Bar No. 53015
3405 West Truman Boulevard, Suite 210
Jefferson City, MO 65109

Attorney for Respondent

BOARD


Tina Steinman 2/13/06
Date
Executive Director

JEREMIAH W. (JAY) NIXON
Attorney General


Amy L. Braudis 2/7/06
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Attorneys for Petitioner

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San Diego, California 92186-5266
6 Telephone: (619) 645-3039
Facsimile: (619) 645-2061
7
8 Attorneys for Complainant

9
10 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 WILLIAM ROBERT COOK, M.D.
1521 Alton Road #676
14 Miami Beach, Florida 33139
15 Physician's and Surgeon's Certificate No.
C 35683
16
17 Respondent.

Case No. 10-2000-111183
(Consolidated with Case Nos. 10-2002-
134814 and 10-2003-153649)

OAH No. L-2003080451

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Complainant Dave Thornton is the Interim Executive Director of the
23 Medical Board of California. He brings this action solely in his official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Mary
25 Agnes Matyszewski, Deputy Attorney General.

26 2. Respondent WILLIAM ROBERT COOK, M.D., (Respondent) is
27 represented in this proceeding by attorney Marilyn Moriarty of the law firm Lewis, Brisbois,
28 Bisgaard & Smith, 550 West C Street, Ste 800, San Diego, CA 92101



3. On or about March 20, 1974, the Medical Board of California issued Physician's and Surgeon's Certificate Number C 35683 to WILLIAM ROBERT COOK, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein. Unless otherwise renewed the license will expire on November 30, 2004.

JURISDICTION

4. First Amended Accusation No. 10-2000-111183, Consolidated with Case Nos. 10-2002-134814 and 10-2003-153649 was filed before the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs ("Division"), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 10-2000-111183, Consolidated with Case Nos. 10-2002-134814 and 10-2003-153649 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 10-2000-111183, Consolidated with Case Nos. 10-2002-134814 and 10-2003-153649. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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1 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
2 each and every right set forth above.

3 CULPABILITY

4 8. Respondent admits the Board can prove its prima facie case to the charges
5 alleged in paragraphs 1-10, inclusive; 11A-11M, inclusive, as to patients M.F., E.C. and L.B.,
6 except as to the allegation he failed to document performance of the physical examination;
7 paragraphs 12B, 12C, 12E-12I, inclusive; and paragraph 15 in First Amended Accusation No.
8 10-2000-111183, Consolidated with Case Nos. 10-2002-134814 and 10-2003-153649. As
9 respondent is currently in litigation with patient K.W. he makes no admissions regarding any of
10 his care and treatment of her. Should respondent ever re-apply for his medical license, he further
11 admits to the truth of each and every allegation. The admissions made by respondent herein are
12 only for the purposes of this proceeding, or any other proceedings in which the Medical Board of
13 California or other professional licensing agency is involved, and shall not be admissible in any
14 other criminal or civil proceeding.

15 9. Respondent agrees that his license is subject to discipline and he agrees to
16 be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

17 CONTINGENCY

18 10. It is understood by respondent that, in deciding whether to adopt this
19 Stipulation, the Division may receive oral and written communications from its staff and the
20 Attorney General's office. Communications pursuant to this paragraph shall not disqualify the
21 Division or other persons from future participation in this or any other matter affecting
22 respondent. In the event this settlement is not adopted by the Division, the Stipulation will not
23 become effective and may not be used for any purpose, except for this paragraph, which shall
24 remain in effect. The parties understand and agree that facsimile copies of this Stipulated
25 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
26 force and effect as the originals.

27 ///

28 ///

AUG-12-2004 15:26


LBES

17. Respondent and complainant have negotiated the investigative and prosecution costs incurred by the Board in this matter and respondent agrees to reimburse the Board as follows: Within 90 calendar days from the effective date of the Decision or other period agreed to by the Division or its designee, respondent shall reimburse the Division the amount of \$5,000. Should respondent ever re-apply for his license he must first reimburse the Board an additional \$15,000 before his application or petition for re-licensure will be processed. The filing of bankruptcy or period of non-practice by respondent shall not relieve the respondent of his obligation to reimburse the Division for its costs.

ACCEPTANCE

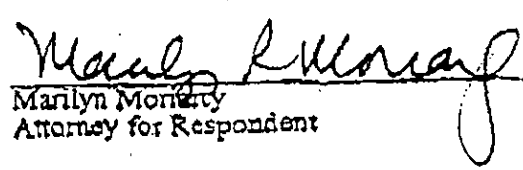
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marilyn Moriarty. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 8/13/04


William Robert Cook, M.D.
Respondent

I have read and fully discussed with Respondent William Robert Cook, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/13/04


Marilyn Moriarty
Attorney for Respondent

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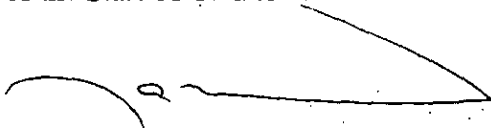
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 8-25-04.

BILL LOCKYER, Attorney General
of the State of California



MARY AGNES MATYSZEWSKI
Deputy Attorney General
Attorneys for Complainant

Before the
Administrative Hearing Commission
State of Missouri



STATE BOARD OF REGISTRATION FOR THE)
HEALING ARTS,)

Petitioner,)

vs.)

WILLIAM R. COOK, JR., M.D.,)

Respondent.)

No. 05-1054 HA

CONSENT ORDER

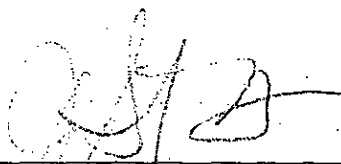
The licensing authority filed a complaint. Section 621.045, RSMo 2000, gives us jurisdiction.

On February 14, 2006, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission, and Missouri Board of Registration for the Healing Arts and Consent Order With Joint Proposed Findings of Fact and Conclusions of Law." On February 17, 2006, the parties filed an Amendment by Interlineation. Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 334.100.2(8), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, RSMo 2000. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on February 21, 2006.



JUNE STRIEGEL DOUGHTY
Commissioner